

ORDER NO. 3731

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Before Commissioners:

Robert G. Taub, Chairman;
Mark Acton, Vice Chairman;
Tony Hammond; and
Nanci E. Langley

Competitive Product Prices
First-Class Package Service Contract 57 (MC2016-155)
Negotiated Service Agreement

Docket No. CP2016-218

ORDER APPROVING AMENDMENT TO
FIRST-CLASS PACKAGE SERVICE
NEGOTIATED SERVICE AGREEMENT

(Issued January 6, 2017)

I. INTRODUCTION

The Postal Service seeks to amend a First-Class Package Service negotiated service agreement.¹ For the reasons discussed below, the Commission approves the Amendment.

¹ Notice of United States Postal Service of Amendment to First-Class Package Service Contract 57, with Portions Filed Under Seal, December 22, 2016 (Notice). The amendment is an attachment to the Notice (Amendment).

In Order No. 3390, the Commission approved the First-Class Package Service Contract 57 negotiated service agreement (Existing Agreement).² On December 22, 2016, the Postal Service filed notice that it has agreed to the Amendment to the Existing Agreement. On December 27, 2016, the Commission issued a notice reopening this docket to consider the Amendment, appointing a Public Representative, and providing interested persons with an opportunity to comment.³

The Postal Service intends for the Amendment to become effective two business days after the date that the Commission completes its review of the Notice. Notice at 1. The Postal Service asserts that the Amendment will not materially affect the cost coverage of the Existing Agreement. *Id.*

II. COMMENTS

Comments were filed by the Public Representative on January 5, 2017.⁴ No other person submitted comments. The Public Representative reviewed the Amendment, the Existing Agreement, and the financial model filed under seal. PR Comments at 2. Based on that review, he concludes that the Existing Agreement, as amended, should continue to generate sufficient revenue to cover costs and satisfy 39 U.S.C. § 3633(a). *Id.* He notes that the Commission will be able to review the financial results for the contract in future Annual Compliance Determination reports for compliance with 39 U.S.C. § 3633(a). *Id.*

III. COMMISSION ANALYSIS

The Commission has reviewed the Notice, the accompanying materials filed under seal, and the comments filed by the Public Representative.

² See Docket Nos. MC2016-155 and CP2016-218, Order Adding First-Class Package Service Contract 57 to the Competitive Product List, June 28, 2016 (Order No. 3390).

³ See Docket No. CP2016-25, *et al.*, Notice Initiating Docket(s) for Recent Postal Service Negotiated Service Agreement Filings, December 27, 2016.

⁴ Public Representative Comments on the United States Postal Service Notice of Amendment to First-Class Package Service Contract 57, January 5, 2017 (PR Comments).

Cost considerations. The Commission reviews competitive product prices to ensure that each product covers its attributable costs, does not cause market dominant products to subsidize competitive products, and contributes to the Postal Service's institutional costs. 39 U.S.C. § 3633(a); 39 C.F.R. §§ 3015.5 and 3015.7. As long as the revenue generated by the product exceeds its attributable costs, the product is unlikely to reduce the contribution of competitive products as a whole or to adversely affect the ability of competitive products as a whole to contribute an appropriate share of institutional costs. In other words, if a product covers its attributable costs, it is likely to comply with 39 U.S.C. § 3633(a).

The Amendment replaces Sections I.F.1, I.F.2, I.F.3, Table B, and I.G.1 of the Existing Agreement. Notice, Attachment A at 1. The Amendment does not materially affect the underlying financial analysis of the Existing Agreement. Thus, the Commission finds that the Existing Agreement, as amended, comports with the provisions applicable to rates for competitive products in 39 U.S.C. § 3633(a) and 39 C.F.R. § 3015.7.

Other considerations. The Postal Service states that the Amendment shall become effective two business days after the date that the Commission completes its review. Notice at 1. The Existing Agreement, as amended, is set to expire three years after the initial effective date unless, among other things, either party terminates the contract with 30 days' written notice to the other party or it is renewed by mutual agreement.⁵

If the Existing Agreement, as amended, is terminated prior to the scheduled expiration date, the Postal Service shall promptly notify the Commission.

In conclusion, the Commission approves the Existing Agreement, as amended.

⁵ Request of the United States Postal Service to Add First-Class Package Service Contract 57 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data, June 17, 2016, Attachment B at 4. Should both parties agree to renew the agreement, any such renewal is required to follow the requirements of 39 U.S.C. § 3633 and the Commission's implementing regulations of 39 C.F.R. part 3015.

IV. ORDERING PARAGRAPHS

It is ordered:

1. The Commission approves the First-Class Package Service Contract 57 negotiated service agreement, as amended.
2. The Postal Service shall notify the Commission if the Existing Agreement, as amended, terminates prior to the scheduled expiration date.

By the Commission.

Stacy L. Ruble
Secretary